

Remarks

Interview

Applicants thank the Examiner for his helpful comments provided in an interview via telephone with Rupert Bevan, Examiner Ogden, and the undersigned on June 23, 2010.

Rejection Under 35 U.S.C. § 103

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over RU 2180213 or RU 2185814, in view of O'Grady et al. (20050112084). Applicants respectfully traverse this rejection.

Claims 1 and 7 were amended to clarify that the soap is a solid soap. Basis for this amendment is found in the specification as originally filed, for example page 11, lines 1-5. Claim 1 was further amended to clarify that the sapropel is dried sapropel. Basis for this amendment is found in the specification as originally filed for example on page 10, lines 1-6. Claim 6 was canceled without prejudice or disclaimer. No new matter was introduced by these amendments.

Legal Standard

The starting point for an obviousness determination must be the Supreme Court's decision in *KSR v. Teleflex*, 550 U.S. 398 (2007), which refocuses the determination of whether a claimed invention is obvious back to the process the Court had defined in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966). There, the Court had held that the obviousness determination should address four factors, all of which must be considered, though not in any prescribed order: (1) the scope and content of the prior art; (2) the level of ordinary skill in the

art; (3) the differences between the claimed invention and the prior art; and (4) any secondary considerations suggesting nonobviousness, such as commercial success, failure of others, and long felt but unmet need. *Id.* The Court cautioned that the fact finder should be careful about reading the teachings of the invention at issue into the prior art, to avoid applying inappropriate hindsight, *ex post* reasoning. *Id.* at 36.

Analysis

RU 2180213 or RU 2185814 rely on the cathartic properties of fresh sapropel in cosmetic compositions. The products disclosed in these patents are not saponified (i.e., they are not soaps), but glycerides and stearates are used, probably to homogenize the other ingredients. Basically, the two Russian patents disclose mud packs, not soaps. Claims 1-5 and 7-9 are directed to solid soap or a method of using a solid soap containing glycerine and dried sapropel.

O'Grady et al. fails to cure the deficiencies of RU 2180213 or RU 2185814. The combination of the cited art does not disclose or suggest to one of ordinary skill in the art that combining dried sapropel and glycerine in a soap would provide a soap with desirable properties for treating skin disorders. Indeed, it was routine in the art to remove glycerine from soaps. O'Grady et al. refers generally to glycerine as being one of any number of different ingredients, i.e., it is not identified as possessing particularly beneficial properties for treating skin disorders.

Applicants have surprisingly discovered that the inclusion of dried sapropel, along with maintaining the glycerine from the saponification, has two general properties, namely mild

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AMENDMENT AND RESPONSE TO OFFICE ACTION

abrasion and metal ion capture. It was unexpected that dried sapropel could act as a metal chelator which imparts therapeutic qualities to the soap.

Allowance of claims 1-5 and 7-9 is respectfully solicited.

Respectfully submitted,

/Charles Vorndran, Ph.D., J.D./
Charles Vorndran, Ph.D., J.D.
Reg. No. 45,315

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PABST PATENT GROUP LLP
1545 Peachtree Street, NE
Suite 320
Atlanta, Georgia 30309
(404) 879-2153
(404) 879-2160 (Facsimile)